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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ABBOTT DIABETES CARE INC. and
ABBOTT LABORATORIES,

Plaintiffs/Counterdefendants,

v.

ROCHE DIAGNOSTICS CORP.,
ROCHE DIAGNOSTICS OPERATIONS, INC.
and BAYER HEALTHCARE LLC,

Defendants/Counterplaintiffs.

Case No. C05-03117 MJJ

THERASENSE, INC. AND ABBOTT
LABORATORIES,

Plaintiffs/Counterdefendants,

v.

NOVA BIOMEDICAL CORPORATION AND
BECTON, DICKENSON COMPANY,

Defendants/Counterplaintiffs.

Case No. C04-2123MJJ
Case No. C04-3732MJJ
Case No. C04-3327MJJ

**REQUEST FOR ORDER GRANTING
DEFENDANTS LEAVE TO AMEND
THEIR ANSWERS AND
COUNTERCLAIMS**

On June 29, 2007, Defendants Bayer Healthcare, LLC and Roche Diagnostics Corporation and Roche Diagnostics Operations, Inc. served their motions for leave to amend their answers and counterclaims. On July 31, 2007 Defendants Becton, Dickinson and Co. and Nova Biomedical Corporation served their motion for leave to amend their answer and counterclaims in response to Plaintiffs' motion to strike. On September 18, 2007, the Court heard arguments on the parties' motions. Pursuant to the Court's request, the parties submit this Proposed Stipulated Order, which reflects the Court's ruling stated on the record of hearing held September 18, 2007.

Respectfully submitted,

Dated: 9/21, 2007

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Dated: 9/21, 2007

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Dated: 9/21, 2007

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By: Jeanne Curtis

CHDS01 419944v1

**REQUEST FOR ORDER GRANTING DEFENDANTS
 LEAVE TO AMEND THEIR ANSWERS AND
 COUNTERCLAIMS**

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Jeanne Curtis

*Attorneys for Defendants Nova Biomedical
Corporation and Becton, Dickinson and Company*

Dated: 9/21, 2007

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Attorneys for Defendant Bayer Healthcare LLC

~~PROPOSED~~ STIPULATED ORDER

This cause being heard in cases CO-5-3117, CO-4-2123, CO-4-3327, and CO-4-3732 on the motions by Defendants Bayer Healthcare, LLC and Roche Diagnostics Corporation and Roche Diagnostics Operations, Inc. served June 29, 2007, and the motion of defendants Becton, Dickinson and Co. and Nova Biomedical Corporation served July 31, 2007 in response to Plaintiffs' motion to strike, for leave to amend their answers and counterclaims; briefs having been filed and arguments heard;

Wherefore, It Is Ordered That:

For the reasons stated on the record of hearing held September 18, 2007, all Defendants' motions are granted and the amended answers and counterclaims are deemed filed on September 18, 2007 and the Court denies Abbott's motion to strike BD's and Nova's amended answer and counterclaims.

It is further ordered that Abbott is permitted to take the depositions of Matthew Musho and Ying Le before the expert discovery cut-off as set forth in the Court's July 27, 2007 case management statement, or any amended thereto. Furthermore, the parties shall meet and confer and provide the Court with a proposed modified case management statement by September 26, 2007 reflecting any proposed changes to the current case schedule.

Date 09/25/07

The Honorable Martin J. Jenkins
Judge

